

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	CC Docket No. 99-200
Numbering Resource Optimization)	
)	CC Docket No. 96-98
Implementation of the Local)	
Competition Provisions of the)	
Telecommunications Act of 1996)	
_____)	

**REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.
ON PETITION OF CALIFORNIA PUBLIC UTILITIES COMMISSION FOR
AUTHORITY TO IMPLEMENT TECHNOLOGY-SPECIFIC OVERLAY CODES
AND REQUEST FOR EXPEDITED TREATMENT**

Pursuant to Public Notice DA 02-2845,¹ AT&T Wireless Services, Inc. (“AWS”) submits these reply comments on the Petition of the California Public Utilities Commission (“CPUC”) for authority to implement technology-specific overlay (“TSO”) area codes in the 310 and 909 numbering plan areas (“NPAs”) in California. Given the very small amount of numbers left in these NPAs, the record demonstrates that the Commission should act on the CPUC petition immediately and deny it for the reasons stated in AWS’ and other carriers’ comments.

I. DISCUSSION

The record reflects nearly unanimous opposition to the CPUC petition. In addition, the majority of parties urge the Commission to expedite its consideration and denial of the petition.² Instead, the Commission should require the CPUC to implement traditional area code relief at once in the 310 and 909 NPAs.

¹ Public Notice, *Wireline Competition Bureau Seeks Comment on the Petition of the California Public Utilities Commission for Authority to Implement Technology-Specific Overlays*, DA 02-2845, CC Docket No. 99-200 (Oct. 24, 2002) (comments due Nov. 25, 2002; replies due Dec. 10, 2002).

² See, e.g., Sprint PCS comments at 2-3; Cingular comments at 2-3; CTIA comments at 1-3; Nextel comments at 10. The 310 and 909 NPAs are scheduled to exhaust in the Second Quarter 2003; the 310 NPA has only six NXXs

Significantly, all the commenting carriers (wireless and wireline) are in agreement that the CPUC has failed to meet its burden of proof to demonstrate that the benefits of the proposed TSOs outweigh any costs or that the proposed TSOs meet the Commission's guidelines.³ The record illustrates among other things that: (i) elements of the TSOs (take-backs of wireless numbers, segregation of wireless and "transparent" numbers, lack of 10-digit dialing) are not only inconsistent with the Commission's TSO guidelines, but also discriminatory and anti-competitive; (ii) there is no justification or reason to segregate wireless numbers given wireless carriers' participation in pooling and scheduled requirement to port; (iii) the TSOs would provide no or little benefit given that the NPAs are close to exhaust; and (iv) ultimately, an all-services overlay would be preferable to the proposed TSOs.⁴

The only two parties commenting in support of the CPUC petition are the New York Department of Public Service ("NYDPS") and The Utility Reform Network ("TURN"). NYDPS and TURN, however, ignore these critical flaws of the CPUC proposal, and instead incorrectly assert, among other things, that the proposed TSOs would "limit...the effects of the transition to a new area code"⁵ and that the CPUC's proposals meet the Commission's requirements.⁶ Critically, both supporting parties fail to, and cannot, given the lack of evidence on the record, argue that the CPUC met its burden of demonstrating that the proposed TSOs are preferable to an all-services overlay, or that the proposed TSOs' benefits outweigh the costs.

available for assignment and the 909 NPA has only 12 remaining NXX codes.

³ See generally AWS comments; Cingular comments; CTIA comments; Nextel comments; Onstar Corporation; SBC comments; Sprint comments; T-mobile comments; Verizon comments; United States Cellular Corporation; Verizon Wireless comments; Weblink Wireless comments.

⁴ See, e.g., AWS comments; CTIA comments; Cingular Wireless comments; and Sprint comments.

⁵ NYDPS comments at 2.

⁶ See TURN comments.

A. The Record Demonstrates That the Proposed TSOs are Discriminatory And Anti-Competitive and Impose Considerable Costs and Burdens

Nearly all the parties condemn the discriminatory and anti-competitive impacts of these elements of the proposed TSOs: (1) “take-back” of wireless numbers; (2) segregation of wireless customers; and (3) lack of mandatory 10-digit dialing in the NPAs.⁷

As a preliminary matter, with regard to the proposed “take-backs,” several carriers echoed AWS’ observation that the Commission clearly intended for a three-digit area code change to constitute a “take-back.”⁸ Sprint and others noted that the Commission recognized that take-backs occur when a customer is required to change his or her area code under a geographic split, for example.⁹ Specifically, the Commission discussed the effect of “take-backs” in its consideration of the Texas Commission’s proposed geographic split in 1996, which would have required landline customers to change the area code portion of their 10-digit number.¹⁰

⁷ As AWS and other parties noted, these elements are also inconsistent with the Commission’s guidelines for TSOs.

⁸ See, e.g., Verizon comments at 5; Cingular comments at 6; Sprint comments at 9, *citing also Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas; Administration of the North American Numbering Plan; Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois; Petition for Declaratory Ruling Regarding Area Code Relief Plan for Area Codes 508 and 617, filed by the Massachusetts Department of Public Utilities; New York Department of Public Service Petition for Expedited Waiver of 47 C.F.R. Section 52.19(c)(3)(ii)*, FCC 99-243, CC Docket No. 96-98; CC Docket No. 95-185; NSD File No. 96-8; CC Docket No. 92-237; IAD File No. 94-102; NSD-L-96-15; NSD File No. L-98-03, Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order (Sept. 13, 1999) (“*Third Local Competition Order*”) at para. 3.

⁹ Sprint comments at 9; Nextel comments at 4; CTIA comments at 4-5.

¹⁰ See *Matters of Local Competition Provisions of the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston, ordered by the Public Utility Commission of Texas, Administration of the North American Numbering Plan, Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, FCC 96-333, Second Report and Order and Memorandum Opinion and Order (rel. Aug. 8, 1996) (“*Second Local Competition Order*”) at para. 308 (noting that “[r]equiring approximately half of the wireless customers and wireline customers to change telephone numbers in a geographic split is an equitable distribution of burdens”); see also Texas Public Utility Commission Order, Docket No. 14447, SOAH Docket No. 473-95-1003 (Mar. 13, 1996) (noting that the proposal of geographic split requiring landline customers to take back the area code portion of the 10-digit number constitutes a “take-back”).

Moreover, the commenters agree that even with just a three digit-number change, the net effect of the CPUC proposal would still be to impose significant costs and burdens on only one segment of the market.¹¹ As such, practically all commenters opposed wireless “take-backs” as discriminatory and anti-competitive.¹² Although the NYDPS supports the proposed TSOs as having less impact on large businesses than traditional area code relief because businesses would not have to change stationery and advertising, this statement incorrectly appears to assume that large businesses do not rely on wireless phones.¹³ Further, the NYDPS does not explain why it is preferable to impose these considerable costs and burdens *only on wireless customers*. According to Verizon, there are approximately 3 million wireless customers in these NPAs¹⁴ who would have to change their phone numbers; and notify friends, family, and business associates of the number change. A number of these wireless customers would have to reprint stationery and business cards, and change advertising. Further, as AWS and others noted, the proposed TSOs would require wireless customers alone to undergo this experience, without the benefit of the public awareness that occurs when both wireless and wireline customers undergo area code relief in a traditional geographic split.

Similarly, many commenting carriers observe that the segregation of wireless customers into the TSO is discriminatory and may dampen wireline-wireless competition because such segregation prevents wireless carriers and customers from obtaining numbers in the desirable

¹¹ See, e.g., Sprint comments at 9; Cingular comments at 6-7; Nextel comments at 4-5.

¹² See, e.g., Cingular comments at 7-8; CTIA comments at 5-7; Nextel comments at 5-7; SBC comments at 1-3; Sprint comments at 8-10; United States Cellular Corporation comments at 5; Verizon Wireless at 3-5. The CPUC also failed to make the requisite showing that the take-backs are justified, including demonstrating that wireless customers support the take-backs.

¹³ To the extent that only smaller businesses rely more heavily on wireless phones, it would also be inequitable to make small businesses bear the burden of area code relief more than large businesses.

¹⁴ CTIA comments at 5.

area codes.¹⁵ The record also reflects that there is no justification for this segregation. AWS and other parties comment that it particularly does not make sense for this discriminatory segregation, in light of the fact that the Commission will require wireless carriers to implement local number portability (“LNP”) by next year.¹⁶ With wireless LNP, Sprint notes that it “becomes impossible for regulators to segregate wireless and landline customers into different area codes.”¹⁷

Finally, the lack of mandatory 10-digit dialing may exaggerate the already anti-competitive and discriminatory impacts of the CPUC’s proposed TSOs. In addition to the fact that the Commission has generally disfavored permanent waiver of the 10-digit dialing requirement, the CPUC’s proposed TSOs are so anti-competitive and discriminatory already that 7-digit dialing would exacerbate the inequitable effects of dialing disparity.¹⁸

B. The Record Shows That, as a Practical Matter, the TSOs Would Provide Little Benefit At this Time

As AWS and parties also observed, the minimal benefit of the proposed TSOs – extension of the NPAs’ lives – does not justify or outweigh the considerable costs of the proposed TSOs.¹⁹ Numerous parties found it doubtful that the TSOs would provide much benefit, given that the TSOs would be implemented in NPAs that are projected to exhaust within six months. Specifically, AWS and others expressed concern that it would take a considerable amount of time (approximately 12-18 months according to Verizon)²⁰ for wireless carriers to

¹⁵ See, e.g. AWS comments at 11-12; Sprint comments at 14; Verizon Wireless comments at 10-12; Cingular comments at 14.

¹⁶ AWS comments at 11-12; CTIA comments at 7; Sprint comments at 17; Verizon Wireless comments at 12.

¹⁷ Sprint comments at 16-17.

¹⁸ See AWS comments at 13-14; CTIA comments at 9-10; Nextel comments at 7-9; Sprint comments at 10-11.

¹⁹ AWS comments at 9-11; Cingular comments at 14; CTIA comments at 8-10; Verizon comments at 2.

²⁰ Verizon comments at 4. See also AWS comments at 9-11; CTIA comments at 11; Verizon comments at 5-6;

complete the take-backs, and that “[b]y the time wireless numbers could be reclaimed for reassignment to wireline users, the TSOs would become an all services overlay.”²¹

Moreover, contrary to the assertions of TURN, the proposed TSOs would *not* conserve numbering resources in California. Sprint correctly points out that the TSOs do not promote efficient number usage or optimize number allocation.²² Implementation of a TSO or an all-services overlay helps to provide additional numbering resources to customers in the underlying NPA, but it does “not improve the efficiency with which a wireless carrier utilizes the numbers.”²³ In fact, if anything, a TSO decreases efficient number allocation, by making pooling less efficient.²⁴

C. The Record Reflects That an All-Services Overlay is Preferable to a TSO

Although the Commission recognized that in some cases, a state commission may overcome the inherently discriminatory aspects of TSOs by demonstrating that the benefits outweigh the costs,²⁵ the record in this proceeding shows that the CPUC has failed to do so. Instead, the record overwhelmingly demonstrates that the costs and burdens of the proposed TSOs far outweigh any marginal benefits of extending the lives of the 310 and 909 codes for a short period of time. Further, the record reflects that the CPUC petition has failed to show that

Verizon Wireless comments at 11-13.

²¹ Verizon Wireless comments at 13. Further, as parties noted, if the CPUC petition were granted, the TSOs could be implemented within a year at the earliest, and by that time, wireless carriers will be required to port numbers. See AWS comments at 12; CTIA comments at 7. Once wireless LNP occurs, as discussed above, the segregation of wireless-wireline numbers no longer makes sense.

²² Sprint comments at 14 (“Whether a carrier obtains numbers from an incumbent NPA or a new specialized overlay does not change in any way the efficiency with which the carrier utilizes the numbers.”)

²³ Sprint comments at 14.

²⁴ See *Numbering Resource Optimization, Implementation of Local Competition Provisions of the Telecommunications Act of 1996, Telephone Portability*, FCC 01-362, Third Report and Order and Second Order on Reconsideration in CC Docket No.96-98 and CC Docket No.99-200 (rel. Dec. 28, 2001) (“*Third NRO Order*”) at para. 87; Cingular comments at 11-12; Verizon Wireless comments at 12.

²⁵ See *Third NRO Order* at paras. 71-73.

its proposed TSOs would be preferable to an all-services overlay, and in fact, illustrates exactly the opposite – that an *all-services overlay would be preferable to a TSO*.

In contrast with the costs under the proposed TSOs, an all services overlay results in no unfair or discriminatory impacts on just one segment of the industry; does not require wireless customers and carriers solely to bear the burden of area code relief; does not require wireless customers to change their telephone numbers; and does not harm wireless competition.

Moreover, implementation of an all-services overlay now would be less confusing and resource-intensive than requiring customers to undergo area code relief twice within a short timeframe. Sprint correctly points out that it is more costly to implement the proposed TSOs than to implement an all-services overlay. While some of the TSOs' costs (network translations and customer education) are the same costs that *all* carriers and customers would undergo during an all-services overlay, the proposed TSOs (with take-backs) impose *additional* costs such as the reprogramming of wireless handsets, customer re-education about the NPAs, and the loss of competition between wireless and wireline carriers.²⁶ Moreover, additional changes would occur in two years, imposing additional costs and resulting in greater customer confusion than if traditional area code relief were to be implemented once.

²⁶ Sprint comments at 7. The NYDPS support of the CPUC's proposed TSOs is short-sighted because it neglects to recognize that ultimately, in two years, customer education efforts would again have to be conducted and customers would have to adjust to additional area code relief.

II. CONCLUSION

For the foregoing reasons and those stated in its opening comments, AWS respectfully requests that the Commission deny the CPUC petition and require the CPUC to implement traditional area code relief in the 319 and 909 areas immediately.

Respectfully submitted,

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